



WESTFIELD-WASHINGTON TOWNSHIP  
BOARD OF ZONING APPEALS

November 14, 2023

2311-VS-29

Exhibit 1

**Petition Number:** 2311-VS-29

**Subject Site Address:** 15547 Hidden Oaks Lane (The "Property")

**Property Owner:** Jennifer & Steven Oleksiw

**Petitioner:** Chris Garvin, Outdoor Environments Group (The "Petitioner")

**Request:** The Petitioner requests a Variance of Development Standard to encroach eleven (11) feet into the forty (40) foot Minimum Rear Yard Setback for the construction of a swimming pool on 0.48 acres +/- in the Bridgewater PUD District.

**Current Zoning:** Bridgewater PUD (Ord. 06-49)

**Current Land Use:** Residential

**Approximate Acreage:** 0.48 acres+/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Site Plan

**Staff Reviewer:** Weston Rogers, Associate Planner

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### **OVERVIEW**

**Location:** The subject Property is 0.48 acres +/- in size and is located at 15547 Hidden Oaks Lane (see **Exhibit 2**). The Property is currently zoned Bridgewater PUD. The surrounding properties are also zoned Bridgewater PUD.

**Variance Request:** The Petitioner is requesting a Variance of Development Standard to encroach eleven (11) feet into the forty (40) foot Minimum Rear Yard Setback as further described herein.

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### **SUMMARY OF VARIANCE**

The Property is currently subject to Zoning Standards for Bridgewater PUD District as set forth in Ordinance 06-49. The zoning sets forth a minimum rear yard setback line of forty (40) feet. The Petitioner is requesting this variance to encroach eleven (11) feet into the forty (40) foot Minimum Rear Yard Setback to accommodate a swimming pool, as illustrated on the Site Plan (see **Exhibit 3**).

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### **COMPREHENSIVE PLAN**

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the property within the "Existing Suburban" land use classification<sup>1</sup>. The vision for the Suburban Residential classification is

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<sup>1</sup> Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area.<sup>2</sup>

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses<sup>3</sup>. The Plan also contemplates Existing Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

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## **PROCEDURAL**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the November 14, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

**Conditions:** The UDO<sup>4</sup> and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

**Acknowledgement of Variance:** If the Board of Zoning Appeals approves this petition, then the UDO<sup>5</sup> requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

**Variances of Development Standard:** The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

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<sup>2</sup> Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

<sup>3</sup> Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

<sup>4</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

<sup>6</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and

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**DEPARTMENT COMMENTS**

**Approval:** If the Board is inclined to approve the Variance of Standard (2311-VS-29), then the Department recommends the findings as set forth below, for the variance:

**Recommended Conditions of Approval:**

1. **That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department;**
2. **That the variance is applicable only to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool specifically shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development.**

**Recommended Findings for Approval:**

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

**Finding:** It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the zoning of the Bridgewater PUD.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the use of the Property will not change.

- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

**Finding:** Strict adherence to the zoning ordinance would result in the inability to improve the property as proposed and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.

**Denial:** If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.